



STATE OF CALIFORNIA

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KELLY J. BRODIE  
Executive Officer

May 17, 2000

Mr. Bion M. Gregory  
Legislative Counsel  
State Capitol, Room 3021, B-30  
Sacramento, CA 95814

Dear Mr. Gregory:

The State Board of Control (SBOC) is required, pursuant to Penal Code Section 1202.41, to provide a preliminary report to the Legislature on the status of the pilot project created by this section. In accordance with this requirement, the SBOC is pleased to submit the enclosed preliminary report.

Should you have any questions, please contact Kelly Brodie, Executive Officer, State Board of Control, at 323-3432.

Sincerely,

CLIFF ALLENBY, Chairman  
State Board of Control

CA:KB:lkt:RRCD:08:02:99/00

cc: see attached distribution list  
Kelly Brodie, Executive Officer, State Board of Control

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**LEGISLATIVE REPORT LISTING**

**ORIGINAL LETTER TO EACH OF THE FOLLOWING:**

Mr. Bion M. Gregory  
Legislative Counsel  
State Capitol, Room 3021, B-30  
Sacramento, CA 95814  
(1 original)

Mr. E. Dotson Wilson  
Chief Clerk of the Assembly  
State Capitol, Room 3196, E-24  
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(1 original)

Mr. Gregory Palmer Schmidt  
Secretary of the Senate  
State Capitol, Room 3044, E-22  
Sacramento, CA 95814  
(1 original)

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**COPY OF LEGISLATIVE COUNSEL'S LETTER TO EACH OF THE FOLLOWING:**

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**LEGISLATURE--REVISED 12/20/99**

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## EXECUTIVE SUMMARY

On September 14, 1998, Senate Bill 2021 (Chapter 451, Statutes of 1998), was enacted which added Section 1202.41 to the Penal Code (see Attachment A). This statute established a four-year pilot program between the State Board of Control (SBOC) and three counties (Alameda, Sacramento, and San Diego) for the purposes of collaborating with judges to amend restitution orders imposed pursuant to the provisions of law (Penal Code Section 1202.4(f)). Specifically, the pilot program will ensure that each county develops an effective process that can be utilized to amend restitution orders for victims whose losses are determined after an offender has been sentenced, thereby holding the offender financially accountable for his/her actions. This Preliminary Report to the Legislature is being submitted in accordance with the statutory requirement as stated in Penal Code Section 1202.41(c).

Too often, victims experience financial loss as a result of crime. The concept of restitution allows victims to be repaid by offenders for the victim's out-of-pocket losses. Restitution is a rehabilitative component of an offender's sentence, and as such, it is imperative that the courts acknowledge victims' losses by ordering restitution. Typically, in cases where a victim's losses are known at sentencing, restitution is often imposed against the offender. However, when a victim's losses are not fully known at the time of sentencing, the process of ensuring that a restitution order is imposed for the victim's future losses is much more complicated. Statutorily, the court may amend the amount of a restitution order; however, the courts are hesitant to amend an offender's sentencing order to include restitution when it was not addressed at the time of sentencing. Further, by not addressing restitution at the time of sentencing, the offender has not been put on notice that he/she may be responsible for compensating the victim for losses incurred as a direct result of the crime, thus creating the need for additional restitution hearings which clogs the court system.

Through prior experience in working with the county court systems in California, the SBOC recognizes that each county operates differently, and as such, for the purposes of the pilot program, sample cases and amounts to be amended will vary by county. As the report narrative reflects, the pilot counties have taken different approaches toward implementation of the pilot as noted below:

- ◆ Sacramento County has chosen to first document the processes involved with amending restitution orders via flow charts. As the process varies slightly based on the sentence of the offender (i.e., probation, state prison, etc.) a flow chart is being developed for each sentencing scenario. After each flow chart is finalized, sample cases will be placed on the court calendar for modification utilizing the various process flows.
- ◆ Alameda County has opted to begin with a small sample of cases for offenders sentenced to formal probation and is placing these cases on the court calendar to evaluate the current processes for restitution order

modifications. Concurrently, they are also documenting the processes involved with restitution order modifications through flow charts. Although they began the pilot with cases for formal probationers, they plan on including sample cases and flow charts for other sentencing types as well (i.e., state prison, informal probation, etc.).

- ◆ As with Alameda County, San Diego County has selected a sample of formal probation cases to begin the pilot. These cases have been forwarded to San Diego Probation for the initial steps necessary to modify the restitution orders. Along with forwarding the cases to Probation, San Diego County is also creating flow charts documenting the restitution order modification process for the various sentencing scenarios.

Regardless of the method, each county is working proactively to clearly define its procedures for modifying restitution orders. Although the pilot focuses on Victims of Crime (VOC) Program cases, the procedures developed by the counties will benefit all victims. The preliminary progress to date reflects that these counties have taken the first steps in ensuring that offenders are truly held financially accountable for the losses they cause their victims. The starting point for the collections that will ultimately be realized is the accurate reflection of victim's losses in restitution orders.

Ultimately, the SBOC anticipates that the final report to the Legislature that is due on March 14, 2005, will contain: a generic process for amending the "To Be Determined" (TBD) restitution orders for various types of sentences that can be adopted by all counties; procedures that outline each criminal justice entities respective role and responsibilities in this process; and any forms, documents and training outlines that have been developed by the pilot counties for these procedures.

## **BACKGROUND**

The SBOC administers the state's VOC Program, which reimburses victims for out-of-pocket losses incurred as a result of crime. The Program's Restitution Fund is solely offender-based, and its revenue is received from penalty assessments, a federal Victims of Crime Act (VOCA) grant and court-ordered restitution fines and orders. One hundred percent of restitution fine revenue collected is returned to the Restitution Fund to ensure that expenses can be paid for those victims whose offenders are never identified, captured or convicted. In the event an offender is convicted and ordered to pay restitution, the law requires that the SBOC receive restitution orders from the court in the amount of benefits granted to the VOC Program claimants. As an incentive, the SBOC offers a rebate of ten percent to the counties on all restitution fine and order monies collected and remitted to the Restitution Fund in a timely manner. This rebate is intended to assist the counties in offsetting the administrative costs of collecting restitution from offenders under county jurisdiction.

Historically, the SBOC has focused its efforts on increasing revenue to the Restitution Fund through a combination of collaboration, legislation, outreach/education and automation. Since 1991, the SBOC's efforts have included: legislative changes to consolidate and clarify restitution statutes; restitution training for county criminal justice entities and professional organizations; meetings with judges, district attorneys and chief probation officers to discuss the requirements of restitution; collaboration with other state and county entities to focus on restitution; and the development of automated systems for tracking offenders and their restitution obligations.

As a result of these efforts, the SBOC has learned a great deal about the issues surrounding the administration of restitution across the state. One area that has proven problematic for the counties and the state involves administering TBD restitution orders. As referenced in Penal Code Section 1202.4(f), the courts are required to impose a TBD order when a victim's losses are not known at the time of sentencing. The TBD order is a placeholder so that the offender is aware of the future potential for restitution to be assessed. Once the victim's losses become known, the TBD order is modified to a specific dollar amount so that the appropriate collection entity can then begin collection efforts.

The concept of the TBD orders is very important to the SBOC. A victim has one year to file a claim with the VOC Program with some exceptions, i.e., victims under the age of 18, victims who were unaware of the existence of the VOC Program and deceased victims whose remains are not recovered until a later date. Because offenders typically move so quickly through the criminal justice process, in many cases, the SBOC has not begun to pay losses on a victim's behalf until well after the offender has been sentenced. Ensuring that the courts impose a TBD order makes it easier for them to amend the restitution order once losses are known and benefits have been paid. Additionally, because the VOC

Program serves victims of violent crimes, the victim's losses are typically not fully realized for several months to several years after the incident. The TBD impositions also ensure that the offender is notified at the time of sentencing that he/she is responsible for paying the victim's losses incurred because of his/her criminal conduct. Once again, the TBD order keeps the door open to future losses that a victim may incur as a result of ongoing medical bills or mental health therapy expenses.

Although the concept of the TBD order is in statute, many counties are hesitant to assess the TBD orders for a variety of reasons, some of which are described below.

- Some counties have procedures in place for modifying restitution orders for offenders placed on formal probation, but have no processes for offenders who may be sentenced to state institutions or informal probation.
- In the past, there were no clear guidelines for modifying restitution orders; judges were less willing to impose the TBD orders because there was a concern that they were imposing orders that would never be acted upon or amended. Recently, to address these issues as well as others, the Center for Judicial Education and Research (CJER), in conjunction with the Judicial Council and the SBOC, prepared and distributed a benchguide focusing on restitution.
- Judges have voiced concern over jurisdictional issues involved with transporting offenders from the California Department of Corrections (CDC) institutions to the courts for the purposes of modifying orders, as well as the issue of restitution hearings, because of their complexity and the due process rights of the offender.
- Policy questions have been raised regarding how often the TBD orders can be amended and what timeframes are involved for amending them.

To address the need for creating a streamlined process with minimal due process constraints for amending the TBD orders for all offenders and to answer these policy questions, the SBOC approached the Judicial Council to discuss the concept of working with the courts on this issue. In coordination with the Judicial Council, the SBOC proposed the pilot program in three counties: Alameda, Sacramento, and San Diego. These counties were selected to participate because they are diverse and the SBOC has a collaborative relationship with these counties' District Attorney's Offices through the SBOC Criminal Restitution Compact (CRC), which focuses on ensuring restitution fines and orders are imposed for offenders tied to the VOC Program claims. Through the CRC, the SBOC had been able to obtain sample cases that can be utilized for the purposes of the pilot.

Effective September 14, 1998, urgency legislation (Senate Bill 2021, Chapter 451, Statutes of 1998, Attachment A) added Section 1202.41 to the Penal Code.

This statute allows for the establishment of a four-year pilot program in the three counties noted above to collaborate with the judges in each county to amend restitution orders imposed pursuant to those provisions of law. The legislation required the pilot program to commence 30 days after the effective date and the SBOC to submit a preliminary report no later than one year and six months after the program's inception. A final report to the Legislature is scheduled to be prepared no later than two years and six months after the conclusion of the four-year program (March 14, 2005).

To begin the pilot program, the SBOC developed an implementation plan and contacted each of the presiding judges for the participating counties. A meeting was held with the presiding judge or his designee, and as a result, each county has formed a task force for the pilot program comprised of members of the criminal justice community who handle restitution issues on a daily basis. Members of the task force in each county include: the bench; District Attorney's Office; probation; the Public Defender's Office; court administration and revenue/collection offices. In addition, staff from both the CDC and the California Youth Authority (CYA) will be added in the future.

Although each county has taken a different approach on implementing the pilot program, there are similarities. For one, the task force meetings have revealed that the issue of administering the TBD orders is not the only restitution-related issue in the county that needs to be addressed. Each task force has indicated that in addition to reviewing the process for amending the TBD orders, it plans to take a systemic look at the entire restitution program for its respective county. Additionally, each county has indicated that it will expand the pilot program to look at processes for modifying the TBD orders for non-VOC Program victims in the state who also suffer losses as a result of crime (i.e. white collar crime, property loss, etc.). A positive outcome to the task force meetings has been the information sharing that has occurred between the various entities involved. For many, this is the first time they have met as a group and identified the various roles and responsibilities each entity has in administering restitution in their county.

The ultimate goal of this pilot is for each county to establish a streamlined administrative procedure for the modification of the TBD restitution orders complete with process flow charts and documentation. The pilot counties are reviewing the forms and systems that are utilized in this process and these will also be part of the final outcome of the pilot program. The ultimate goal of the pilot program is to create a uniform statewide process that will provide victims an avenue for obtaining restitution after an offender has been sentenced, thus holding all offenders financially accountable for the losses they cause as a result of crime.

## **ALAMEDA COUNTY**

***HISTORICAL INFORMATION.*** In Alameda County, the Superior Court began its pilot program with a kick-off conference call with the SBOC on January 19, 1999. The Presiding Judge of the Superior Courts, the Honorable Philip V. Sarkisian, formed a committee composed of judges from the various court locations and representatives from the District Attorney's Office, the Probation Department and the Public Defender's Office. The purpose of this committee was to identify the objectives of this pilot program, provide oversight for identifying processes that needed to be established, as well as review and/or change, if necessary, existing processes and systems for modifying the TBD restitution orders.

In addition to discussing the issue of the TBD order modification, this committee also identified four other issues: 1) automation; 2) restitution training of court clerks and other staff; 3) disbursement of monies collected from offenders; and 4) development of uniform procedures for modifying and enforcing restitution orders. The county's existing criminal offender computer system does not contain fields for complete restitution fine/order information to be entered; as such, data regarding fine and order imposition is incomplete and, therefore, somewhat unreliable, making statistically valid information difficult to collect. The county, in conjunction with the SBOC, is working towards revising the system to include restitution-related information. This modification to the system will require retraining of staff in the various courthouses who input information into the computer system. After this issue was identified and addressed, Judge Sarkisian appointed the Honorable Joseph Hurley to chair a task force responsible for implementing the pilot program in Alameda County. The membership is composed of superior court judges handling adult and juvenile cases, superior court staff, SBOC staff, and representatives of county departments involved in the restitution process (Probation Department - adult and juvenile services, District Attorney's Office, Public Defender's Office and Auditor-Controller Central Collections Division). To date, the task force has met several times to review existing restitution processes and to develop and implement new procedures.

Judge Hurley requested that in conjunction with the work of the task force, cases that currently reflect the TBD orders or dollar-amount-not-specified orders be calendared for modification hearings to evaluate the county's existing process.

***CASE IDENTIFICATION.*** A focus report was run from the SBOC's Criminal Disposition Tracking System (CDTS) identifying cases where restitution was ordered in an amount TBD or ordered in a specific amount. This report was verified against the SBOC's VOC Program database for benefits paid on behalf of the victim. Additionally, the report was broken down by sentencing type



(informal probation, formal probation, and state institutions) and by adult and juvenile offenders. From this report, Alameda County chose to focus initially on cases from adult offenders with at least one year remaining on formal probation and with the TBD orders. Sixteen cases were selected and forwarded to the Alameda County Restitution Specialists to review court files to verify the accuracy of the information in the report and confirm that the offenders could be brought back to court for modification of their terms of probation.

After a careful review of the 16 court files it was determined that ten cases would be forwarded to the Probation Department. The review of the offender files yielded additional information, which revealed six of the cases to be unsuitable for modification at this point in the pilot program. The Probation Department notified each of the offenders that he/she had been placed on the December 17, 1999, court calendar for a hearing to modify the terms of their probation.

***STATUS OF THE PROJECT.*** On December 17, 1999, each of the ten offenders was called before Judge Hurley in Department 6 of the court. Jill Nerone, Deputy District Attorney, represented the People in each of the cases. None of the offenders appeared in court with a legal representative.

As the attached chart reflects, the outcome of the proceedings was as follows:

- Six of the ten offenders agreed to the modification of their probation terms for total restitution order imposition of \$11,668.26. Judge Hurley set the terms of repayment and established dates for future progress reports.
- One offender resided out-of-state, with the permission of the Probation Department. To address out-of-state offenders, the District Attorney's Office is preparing a form to allow out-of-state offenders to waive their right to be present in court and agree to the modification of their probation or request a hearing. Therefore, no action was taken on this case at that time. Currently, the form must be formally approved by the District Attorney's Office, the Public Defender's Office and the courts.
- Another offender resided out-of-state with permission of the Probation Department; however, it was understood that Alameda County Central Collections had received payment-in-full for the amount of the restitution requested. The offender had been contacted and an agreement was reached for payment-in-full prior to the hearing.
- One offender did not appear and a bench warrant was issued for his arrest.

- One offender requested a Public Defender be appointed to represent him at a restitution hearing. Judge Hurley referred him to the Public Defender's Office and set a date for the offender to return to court.

The next step in the pilot program is for the task force to document the process that was followed for this segment of offenders, and determine if it was the most effective process for modifications. Once this is complete, new groups of offenders will also be processed through the system. At the task force's February meeting, the court agreed to begin processing the CDC and juvenile offenders through the system.

The task force plans to meet periodically to review progress and plan for the next step. Issues regarding the county's existing policy for allocating installment payments when an offender has fine, fee, and/or assessment obligations, in addition to victim restitution, have been raised. A group of judges will meet with county officials to review the policy.

Committee members are also reviewing collection action taken to enforce court ordered restitution fine/orders when the offender remains under county jurisdiction. There is concern that post-sentencing debt collection efforts are not uniform throughout the courts and current resources might be used in a more cost-effective manner to maximize collection of court ordered payments.

#### **SUMMARY TABLE OF STATISTICS – ALAMEDA COUNTY As of December, 1999**

Due to the initiation of the pilot program, the following cases have been identified as requiring restitution order modifications:

<b>Type</b>	<b>No. of Cases</b>	<b>Amount to be Amended</b>	<b>Status</b>
Adult – Formal	6	\$11,668.26	Probation Modified
Adult – Formal	1	\$11,333.24	Bench Warrant Issued
Adult – Formal Out of State	1	\$ 1,820.00	Payment in Full Received
Adult – Formal Out of State	1	\$ 210.00	DA's Office Preparing Form
Adult – Formal	1	\$ 8,274.96	Requested Public Defender
<b>Totals*:</b>	<b>10</b>	<b>\$33,306.46</b>	

\*These totals represent the original sample of cases that were calendared for offenders currently on formal probation in Alameda County. As the pilot proceeds additional "types" of sentences will be included in the process.

## SACRAMENTO COUNTY

*HISTORICAL INFORMATION.* Sacramento County began its pilot project with a conference call with the SBOC on January 20, 1999. Staff from Sacramento County decided that the pilot project should be executed through a committee/task force (committee). The Honorable Thomas Cecil, Presiding Judge, appointed the Honorable Patrick Marlette to head the committee. Through a series of meetings and discussions, Judge Marlette and county staff identified the parties having an interest in the administration of restitution within the county. Accordingly, the committee includes representatives from each of the following county offices: the courts, District Attorney's Office, Public Defender's Office, Criminal Justice Cabinet, county Bar, Probation Department, Sheriff's Department, county Executive Office, Department of Revenue and Recovery, and the SBOC. In addition, staff from the CDC will be added in the future.

The committee decided to address the restitution order amendment process in the following order:

1. Adults sentenced to:
  - a. Formal probation
  - b. Informal probation
  - c. CDC
2. Juveniles sentenced to:
  - a. CYA
  - b. The equivalent of adult formal probation
  - c. The equivalent of adult informal probation

During the pilot meetings, the committee developed flow charts to document the process for modifying restitution orders. The legislation indicated that the pilot project should focus on the SBOC cases. However, the committee decided to develop procedures to use when a victim requests a restitution order modification rather than the SBOC. While this added minimal work to the process, it allowed the committee to address all victim restitution issues.

Pilot meetings were held every two to three weeks. The discussions revolved around developing the process flows and forms for use in modifying restitution orders. The committee developed the processes for amending restitution orders for formal and informal probationers. Copies of the process flow charts and restitution order amendment forms are attached (process flow charts – Attachment B and amendment forms – Attachment C).

On December 8, 1999, Judge Marlette and the committee made a presentation to the Sacramento County "Home Court" committee on the potential increase in restitution cases and included the proposed process for handling them. With the Home Court committee's approval, there would be a more favorable reception of

the requests for modifications. After a short discussion, the Home Court committee approved the process. With this approval, the pilot project committee, via the SBOC and its CRC representative, has implemented these procedures to modify restitution orders.

***CASE IDENTIFICATION.*** The committee decided to use the following guidelines to select cases for restitution order modifications:

- a) the amount of VOC Program payments total at least \$600.00; or
- b) the amount of increased payments (if an amount was previously ordered) total at least \$600.00; or
- c) the offender will be released from probation within three months.

The committee is tracking the number of court appearances associated with these requests for modification to determine whether or not these guidelines are cost-effective.

***STATUS OF THE PROJECT.*** The committee is working to identify all parties/entities involved in the restitution order amendment process for adult offenders sentenced to the CDC. The committee previously identified the affected parties for cases involving offenders placed on probation and is now developing procedures to use for this segment of offenders. Representatives from the CDC's Victims Services Division have attended recent meetings and are participating in the development of procedures for restitution order modifications involving the CDC inmates.

The committee will:

- develop process flow charts to document the process for modifying restitution order amendments for the CDC inmates;
- identify cost-effective solutions for making these amendments, including using audio video communications where available in lieu of personal appearances by offenders; and
- utilize the percentage of these cases requiring restitution hearings in order to determine the most cost-effective alternative.

The committee anticipates addressing cases where the offenders were sentenced to the CYA and juvenile probation cases once the process for the CDC inmates is complete.

In identifying and focusing on its objective, the committee decided that it would not limit itself to addressing the amendment procedures for restitution, but that it would also address other restitution related issues as they arose. As such, it was brought to the committee's attention that there was an issue before the county

Board of Supervisors that impacted the distribution of monies collected from offenders, including victim restitution. The committee was asked to review the county's Department of Revenue and Recovery's (DRR) current and proposed policies for consistency with California's laws and public policy and to make recommendations to the Criminal Justice Cabinet, if necessary. The committee reviewed the policies and made several recommendations. At a later presentation to the Board of Supervisors, the DRR submitted a revised proposal that included recommendations made by the committee. As such, victims of crimes committed after January 1, 2000, are assured that they will receive a portion of any monies collected by the DRR.

**SUMMARY TABLE OF STATISTICS – SACRAMENTO COUNTY**  
**As of December, 1999**

Due to the initiation of the pilot program, the following cases have been identified as requiring restitution order modifications:

<b>Type</b>	<b>No. of Cases</b>	<b>Amount to be Amended</b>	<b>Status</b>
Adult - Formal	20	\$96,275.43	Submitted
Adult - Formal	17	\$31,381.77	Pending submission
Adult - Informal	10	\$25, 194.73	Submitted
Adult - Informal	4	\$12,059.78	Pending submission
<b>Totals*:</b>	<b>51</b>	<b>\$164,911.71</b>	

\*These figures represent the current number of sample cases to be calendared for restitution modifications in Sacramento County. As the pilot proceeds, additional "types" of sentences will be included in the process.

## SAN DIEGO COUNTY

***HISTORICAL INFORMATION.*** San Diego County began the pilot program with a conference call with the SBOC on February 1, 1999. An initial meeting was convened and presided over by the Honorable Michael Wellington, Supervising Judge over the Criminal Courts. In attendance were representatives from the Superior Courts (Criminal Division, Court Clerks, Fiscal and Research) and the SBOC. The initial meeting contained background information and history of the TBD restitution orders, why they are problematic, as well as the scope, purpose, and statutory obligations of the pilot program. The working committee determined that although processes for amending the TBD restitution orders did exist in the county, all of the agencies which were involved were not aware of the total process. The working committee agreed that it would be beneficial for all agencies affected by the pilot program to meet and discuss the processes and issues that currently exist. Judge Wellington offered to arrange a meeting with representatives of all of the county agencies that administer some portion of restitution to discuss the pilot program and its impact on their agencies.

The task force formed by Judge Wellington was composed of representatives from the Superior Courts (Criminal Division, Court Clerks, Operations Training and Research), Juvenile Courts, Probation Department, District Attorney's Office, City Attorney's Office, Public Defender's Office, Alternate Public Defender's Office, the Office of Revenue and Recovery, and the SBOC. The task force met and discussed the pilot program, its scope and purpose, and statutory obligations. Additionally, the SBOC offered information on the passage of new legislation affecting the program and updates on the other counties participating in the pilot project. Sample process flow charts developed by Sacramento County's pilot project committee were distributed and discussed. Several issues arose regarding the recording of sentencing information and the manpower needed to take the cases back through the system for purposes of amending the restitution order. After discussing the issues, it was decided that the pilot project would separate the cases by jurisdiction focusing on one grouping at a time.

- Adult – Formal Probation
- Adult – Informal Probation
- Juvenile – Formal Probation
- Juvenile – Informal Probation
- Adult – CDC
- Juvenile – CYA

The first grouping chosen was adult offenders sentenced to formal probation. Representatives from those entities that directly impact the adult, formal probationers (Superior Courts - Criminal Division, Court Clerks, Training, Probation, District Attorney's Office, Public Defender's Office, Alternate Public Defender's Office, the Office of Revenue Recovery and the SBOC) met and

discussed resource issues in the District Attorney's Office and Probation Department. The Probation Department advised the committee that it had received the first phase of cases from the SBOC and had begun its review. The District Attorney's Office is currently working on the process flow for its role in the amendment process. The Court Clerks advised the committee that the electronic minutes currently used in the downtown courts would be phased into the outlying courts in the next few months. Since issues dealing with resources are still unresolved, Judge Wellington offered to meet individually with the Probation Department and the District Attorney's Office prior to the next meeting of the full committee scheduled for March, 2000.

***CASE IDENTIFICATION.*** A focus report was generated from the SBOC's CDTs identifying cases where restitution was ordered in an amount TBD or ordered in a specific amount. This report was verified against the SBOC's VOC Program database for benefits paid on behalf of the victims. Additionally, the report was broken down by sentencing type (Informal Probation, Formal Probation and State Institutions) and by adult and juvenile offenders.

The pilot will focus on the identified cases in six phases in the following order:

1. Adult Offenders on Formal Probation
2. Adult Offenders on Informal Probation
3. Juvenile Offenders on Formal Probation
4. Juvenile Offenders on Informal Probation
5. Adult Offenders under CDC jurisdiction
6. Juvenile Offenders under CYA jurisdiction

***STATUS OF THE PROJECT.*** Due to the high volume of cases and the number of court locations in San Diego County, the scope of the first phase was narrowed to include only those cases arising out of the downtown court with dollar thresholds over \$250.00. This will allow the pilot program to focus on a limited number of cases and closely monitor the outcome of each case. Additionally, the most current minute/sentencing order has been pulled for each case in the narrowed grouping with assistance from the District Attorney's Office to ensure that the task force had the most current information for each offender and to facilitate the amendment process.

The first phase of cases has been turned over to the Probation Department for further review. They will also determine if the offender is still under formal probation and which probation officer is responsible for the offender's supervision. Once the review is completed, the individual probation officer will meet with the offender connected to the case, advise the offender of the request for modification of the restitution order, and attempt to obtain a stipulation to the amount.

Additionally, the District Attorney's Office is currently reviewing its process for amending restitution orders for the first phase. Once the Probation Department has exhausted all efforts to obtain stipulations, the District Attorney's Office will begin to address the cases formally before the court.

## **SUMMARY TABLE OF STATISTICS – SAN DIEGO COUNTY**

**As of December, 1999**

Due to the initiation of the pilot program, the following cases have been identified as requiring restitution order modifications:

<b>Type</b>	<b>No. of Cases</b>	<b>Amount to be Amended</b>	<b>Status</b>
Adult – Formal	153	\$619,250.08	In Progress
Adult – Informal	59	\$164,558.86	Phase 2
Juvenile – Formal	25	\$37,591.17	Phase 3
Juvenile – Informal	1	\$1,704.00	Phase 4
Adult – CDC	160	\$711,581.77	Phase 5
Juvenile – CYA	10	\$36,376.17	Phase 6
<b>Totals*:</b>	<b>408</b>	<b>\$1,571,062.05</b>	

\*These figures represent the total population of sample cases in San Diego County, by sentence "type" as of December, 1999, that will be utilized for the purposes of the pilot program.



## NEXT STEPS TO BE UNDERTAKEN BY THE PILOT PROJECT

- The balance of the test cases in each county will be sent through the appropriate procedures for the purposes of developing processes for amending the TBD restitution orders.
- Once the process is developed and approved for each segment of the offender population, the SBOC anticipates that each county's task force will review the process and additional test cases will be put through the process to determine if the process truly works.
- After each county has completed developing processes for each segment of the offender population, it is anticipated that the individual counties will develop policies and procedures for all agencies affected by the new processes and provide training to all employees.
- Prior to the completion of the pilot program, the SBOC anticipates that the three counties participating in the pilot program will meet as one task force to discuss their individual processes and any issues that arose during the pilot program.
- At the completion of the pilot program, the counties will submit a model of the amendment processes that they developed so that other counties throughout the state may use the exact models or amend the models to meet their individual needs.
- SBOC staff will be working with each individual county to develop a more definitive implementation schedule for the pilot program.
- Final Report will be submitted to the Legislature by March 14, 2005.

Although the pilot program solely focuses on the amendment of restitution orders and not the collection of those orders, the SBOC believes that revenue to the Restitution Fund will be favorably affected for the reasons listed below.

- Each county has included the various collection entities in their task forces thus allowing those entities a voice in the overall process of amending the TBD restitution orders. This will allow the task forces the opportunity to identify and rectify any issues regarding the collection of restitution obligations, therefore, enhancing overall collections.
- The SBOC is currently developing an automated statewide database, which will connect the offender with the victim and

financial obligations owed. Currently, there is no linkage between the various entities involved in the assessment and collection of restitution obligations. By developing this database, the various entities will have the necessary information to impose the appropriate restitution obligations on the offender at the time of sentencing and allow all agencies to ascertain the status of outstanding obligations so that effective collections can take place.

- Statutorily, restitution fine and restitution order obligations have an infinite life. The SBOC is currently working on a pilot program with the Franchise Tax Board (FTB) to collect restitution fine obligations from offenders who are terminated from county jurisdiction. By working collaboratively with the counties and the FTB, the offenders will continue to be held accountable for their financial obligations, thus positively affecting the revenue stream to the Restitution Fund.

**INDEX OF ATTACHMENTS FOR  
PRELIMINARY REPORT  
PILOT PROGRAM – RESTITUTION ORDERS**

Attachment A:

Copy of Senate Bill 2021

Attachment B:

Process Flows Created by Sacramento County for TBD Restitution Modifications

Attachment C:

Restitution Order Amendment Forms Created by Sacramento County

## **ATTACHMENT A**

**Senate Bill No. 2021**

**CHAPTER 451**

An act to amend Section 13966.01 of the Government Code, to add Section 1202.41 to the Penal Code, and to amend Sections 730.6 and 730.7 of the Welfare and Institutions Code, relating to restitution, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 13, 1998. Filed  
with Secretary of State September 14, 1998.]

**LEGISLATIVE COUNSEL'S DIGEST**

SB 2021, Schiff. Victims of crime: restitution.

Existing law requires that, when the state has an interest, the State Board of Control shall be given notice and a reasonable opportunity to perfect and satisfy the lien, before a judgment, award, or settlement is satisfied in any action or claim by a victim of a crime to recover damages for injuries.

This bill would require this notice and opportunity to be given before a judgment, award, or settlement is satisfied in any action or claim by a victim of a crime.

Existing law also requires the board to be given, in a prescribed manner, notice of the institution of legal proceedings and settlement, and all other notices that are required by specified law to be given to a judgment debtor, if an action is brought or a claim asserted for damages against a person liable for an injury or death giving rise to an award by the board.

This bill would delete the requirement that the board be given those other notices that are required by specified law to be given to a judgment debtor, and would require the board to be given notice of all hearings, conferences, and proceedings.

Existing law requires the court to order a defendant, including a minor, to make restitution to any victim who has suffered economic loss as a result of the defendant's conduct in an amount established by court order.

This bill would establish a specified 4-year pilot program for the purpose of collaborating with judges to amend restitution orders imposed pursuant to those provisions of law. Under the program, the State Board of Control would be required to determine if the cost of holding a hearing on a restitution order is justified if a hearing has not been waived, and to prepare a preliminary report to the Legislature on the outcome of the pilot program by a specified date and a final report on the outcome of the pilot program by a specified date upon the conclusion of the pilot program.

Existing law provides for the imposition of a restitution fine upon a minor based on the minor's present ability to pay, sets the standard for determining whether a court should order a minor to pay full restitution to the victim, requires the minor to pay ordered restitution as a condition of probation, and rebuttably presumes that a custodial parent or guardian is jointly and severally liable for restitution, fines, and penalty assessments payable by a minor, subject to the parent or guardian's ability to pay.

This bill would specify that a minor's inability to pay shall not be considered a compelling or extraordinary reason not to impose a restitution fine or order and shall not be a consideration in determining the amount of the restitution order. The bill would provide the minor the right to a hearing to dispute the amount of the restitution order, authorize the court to modify the order on its own motion or on the motion of other specified parties, and require the victim to be given notice of the hearing on the motion. The bill would also provide that unsatisfied portions of restitution orders shall be enforceable after the minor is no longer on probation, specify that restitution orders are enforceable in the manner provided for other specified fines, and require that restitution payments made pursuant to a restitution order be paid to the Restitution Fund if the victim received assistance from that fund, thereby constituting an appropriation as the Restitution Fund is continuously appropriated.

The bill would declare that it is to take effect immediately as an urgency statute.

Appropriation: yes.

*The people of the State of California do enact as follows:*

SECTION 1. Section 13966.01 of the Government Code is amended to read:

13966.01. (a) The State of California shall be subrogated to the rights of the victim to whom cash payments are granted to the extent of the cash payments granted. The subrogation rights shall be against the perpetrator of the crime or any person liable for the pecuniary loss, including a carrier held liable in accordance with the provision of a policy of insurance issued pursuant to Section 11580.2 of the Insurance Code.

(b) The state shall also be entitled to a lien on the judgment, award, or settlement in the amount of the cash payments on any recovery made by or on behalf of the victim. The state may recover this amount in a separate action, or may intervene in an action brought by or on behalf of the victim. If a claim is filed within one year of the date of recovery, the state shall pay 25 percent of the amount of the recovery that is subject to a lien on the judgment, award, or settlement, to the victim responsible for recovery thereof from the perpetrator of the crime, provided that the total amount of the lien

is recovered. The remaining 75 percent of the amount, and any amount not claimed within one year pursuant to this section, shall be deposited in the Restitution Fund.

(c) The board may compromise or settle and release any lien pursuant to this article if it is found that the action is in the best interest of the state or the collection would cause undue hardship upon the victim. Repayment obligations to the Restitution Fund shall be enforceable as a summary judgment.

(d) No judgment, award, or settlement in any action or claim by a victim, where the state has an interest, shall be satisfied without first giving the board notice and a reasonable opportunity to perfect and satisfy the lien. The notice shall be given to the board in Sacramento except in cases where the board specifies that the notice shall be given otherwise. The notice shall include the complete terms of the award, settlement or judgment and the name and address of any carrier directly or indirectly providing for the satisfaction.

(e) If the victim, or his or her guardian, personal representative, estate, or survivors, brings an action or asserts a claim for damages against the person or persons liable for the injury or death giving rise to an award by the board under this article, notice of the institution of legal proceedings, notice of all hearings, conferences, and proceedings, and notice of settlement shall be given to the board in Sacramento except in cases where the board specifies that notice shall be given to the Attorney General. Notice of the institution of legal proceedings shall be given to the board within 30 days of filing the action. All notices shall be given by the attorney employed to bring the action for damages or by the victim, his or her guardian, personal representative, estate, or survivors, if no attorney is employed.

Notice shall include all of the following:

- (1) Names of all parties to the claim or action.
- (2) The address of all parties to the claim or action except for those persons represented by attorneys and in that case the name of the party and the name and address of the attorney.
- (3) The nature of the claim asserted or action brought.
- (4) In the case of actions before courts or administrative agencies, the full title of the case including the identity of the court or agency, the names of the parties, and the case or docket number.

When the victim or his or her attorney has reason to believe that a person from whom damages are sought is receiving a defense provided in whole or in part by a carrier, or is insured by a carrier for the injury caused to the victim, notice shall include a statement of that fact and the name and address of the carrier. Upon request of the board, a person obligated to provide notice shall provide the board with a copy of the current written claim or complaint.

(f) The state shall pay the county probation department or other county agency responsible for collection of funds owed to the

Restitution Fund under Section 13967, as operative on or before September 28, 1994, Section 1202.4 of the Penal Code, Section 1203.04, as operative on or before August 2, 1995, of the Penal Code, or Section 730.6 of the Welfare and Institutions Code, 10 percent of the funds so owed and collected by the county agency and deposited in the Restitution Fund. This payment shall be made only when the funds are deposited in the Restitution Fund within 45 days of the end of the month in which the funds are collected. Receiving 10 percent of the moneys collected as being owed to the Restitution Fund shall be considered an incentive for collection efforts and shall be used for furthering these collection efforts. The 10 percent rebates shall be used to augment the budgets for the county agencies responsible for collection of funds owed to the Restitution Fund, as provided in Section 13967, as operative on or before September 28, 1994, Section 1202.4 of the Penal Code, Section 1203.04, as operative on or before August 2, 1995, of the Penal Code, or Section 730.6 of the Welfare and Institutions Code. The 10 percent rebates shall not be used to supplant county funding.

SEC. 2. Section 1202.41 is added to the Penal Code, to read:

1202.41. (a) There is created within the State Board of Control a four-year pilot program for the purpose of collaborating with judges to amend restitution orders imposed pursuant to Section 1202.4 of this code and Section 730.6 of the Welfare and Institutions Code to the extent that the victim has received assistance pursuant to Article 1 (commencing with Section 13959) of Chapter 5 of Part 4 of Division 3 of Title 2 of the Government Code.

(b) The program shall commence 30 days after the effective date of this section and shall include restitution orders imposed by courts in the regional judicial assignments as determined by the Judicial Council, and Court Operation Services encompassing the Counties of Sacramento, San Diego, and Alameda. The State Board of Control, with the assistance of the Judicial Council, shall collaborate with judges in each of the three participating regional judicial assignments. If an inmate or ward does not waive his or her right to attend a restitution hearing for the amendment of a restitution order, the State Board of Control shall determine if the cost of holding the hearing is justified. If the State Board of Control determines that the cost of holding the hearing is not justified, the amendment of the restitution order affecting that inmate or ward shall not be pursued at that time.

(c) The State Board of Control shall prepare a preliminary report to the Legislature on the outcome of the pilot program no later than one year and 180 days after the effective date of the four-year pilot program. The board shall prepare a final report on the outcome of the pilot program no later than 2 years and 180 days after the conclusion of the four-year pilot program.



SEC. 3. Section 730.6 of the Welfare and Institutions Code is amended to read:

730.6. (a) (1) It is the intent of the Legislature that a victim of conduct for which a minor is found to be a person described in Section 602 who incurs any economic loss as a result of the minor's conduct shall receive restitution directly from that minor.

(2) Upon a minor being found to be a person described in Section 602, the court shall consider levying a fine in accordance with Section 730.5. In addition, the court shall order the minor to pay, in addition to any other penalty provided or imposed under the law, both of the following:

(A) A restitution fine in accordance with subdivision (b).

(B) Restitution to the victim or victims, if any, in accordance with subdivision (h).

(b) In every case where a minor is found to be a person described in Section 602, the court shall impose a separate and additional restitution fine. The restitution fine shall be set at the discretion of the court and commensurate with the seriousness of the offense as follows:

(1) If the minor is found to be a person described in Section 602 by reason of the commission of one or more felony offenses, the restitution fine shall not be less than one hundred dollars (\$100) and not more than one thousand dollars (\$1,000). A separate hearing for the fine shall not be required.

(2) If the minor is found to be a person described in Section 602 by reason of the commission of one or more misdemeanor offenses, the restitution fine shall not exceed one hundred dollars (\$100). A separate hearing for the fine shall not be required.

(c) The restitution fine shall be in addition to any other disposition or fine imposed and shall be imposed regardless of the minor's inability to pay. This fine shall be deposited in the Restitution Fund, the proceeds of which shall be distributed pursuant to Section 13967 of the Government Code.

(d) (1) In setting the amount of the fine pursuant to subparagraph (A) of paragraph (2) of subdivision (a), the court shall consider any relevant factors including, but not limited to, the minor's ability to pay, the seriousness and gravity of the offense and the circumstances of its commission, any economic gain derived by the minor as a result of the offense, and the extent to which others suffered losses as a result of the offense. The losses may include pecuniary losses to the victim or his or her dependents as well as intangible losses such as psychological harm caused by the offense.

(2) The consideration of a minor's ability to pay may include his or her future earning capacity. A minor shall bear the burden of demonstrating a lack of his or her ability to pay.

(e) Express findings of the court as to the factors bearing on the amount of the fine shall not be required.

(f) Except as provided in subdivision (g), under no circumstances shall the court fail to impose the separate and additional restitution fine required by subparagraph (A) of paragraph (2) of subdivision (a). This fine shall not be subject to penalty assessments pursuant to Section 1464 of the Penal Code.

(g) In a case in which the minor is a person described in Section 602 by reason of having committed a felony offense, if the court finds that there are compelling and extraordinary reasons, the court may waive imposition of the restitution fine required by subparagraph (A) of paragraph (2) of subdivision (a). When a waiver is granted, the court shall state on the record all reasons supporting the waiver.

(h) Restitution ordered pursuant to subparagraph (B) of paragraph (2) of subdivision (a) shall be imposed in the amount of the losses, as determined. The court shall order full restitution unless it finds compelling and extraordinary reasons for not doing so, and states them on the record. A minor's inability to pay shall not be considered a compelling or extraordinary reason not to impose a restitution order, nor shall inability to pay be a consideration in determining the amount of the restitution order. A restitution order pursuant to subparagraph (B) of paragraph (2) of subdivision (a), to the extent possible, shall be of a dollar amount sufficient to fully reimburse the victim or victims for all determined economic losses incurred as the result of the minor's conduct for which the minor was found to be a person described in Section 602, including all of the following:

(1) Full or partial payment for the value of stolen or damaged property. The value of stolen or damaged property shall be the replacement cost of like property, or the actual cost of repairing the property when repair is possible.

(2) Medical expenses.

(3) Wages or profits lost due to injury incurred by the victim, and if the victim is a minor, wages or profits lost by the minor's parent, parents, guardian, or guardians, while caring for the injured minor.

(4) Wages or profits lost by the victim, and if the victim is a minor, wages or profits lost by the minor's parent, parents, guardian, or guardians, due to time spent as a witness or in assisting the police or prosecution.

A minor shall have the right to a hearing before a judge to dispute the determination of the amount of restitution. The court may modify the amount on its own motion or on the motion of the district attorney, the victim or victims, or the minor. If a motion is made for modification of a restitution order, the victim shall be notified of that motion at least 10 days prior to the hearing on the motion.

(i) A restitution order imposed pursuant to subparagraph (B) of paragraph (2) of subdivision (a) shall identify the losses to which it pertains, and shall be enforceable as a civil judgment pursuant to subdivision (r). The making of a restitution order pursuant to this

subdivision shall not affect the right of a victim to recovery from the Restitution Fund in the manner provided elsewhere, except to the extent that restitution is actually collected pursuant to the order. Restitution collected pursuant to this subdivision shall be credited to any other judgments for the same losses obtained against the minor or the minor's parent or guardian arising out of the offense for which the minor was found to be a person described in Section 602. Restitution payments made pursuant to this subdivision shall be made to the Restitution Fund to the extent that the victim, as defined in subdivision (j), has received assistance pursuant to Article 1 (commencing with Section 13959) of Chapter 5 of Part 4 of Division 3 of Title 2 of the Government Code.

(j) For purposes of this section, "victim" shall include the immediate surviving family of the actual victim.

(k) Nothing in this section shall prevent a court from ordering restitution to any corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision, agency, or instrumentality, or any other legal or commercial entity when that entity is a direct victim of an offense.

(l) Upon a minor being found to be a person described in Section 602, the court shall require as a condition of probation the payment of restitution fines and orders imposed under this section. Any portion of a restitution order that remains unsatisfied after a minor is no longer on probation shall continue to be enforceable by a victim pursuant to subdivision (r) until the obligation is satisfied in full.

(m) Probation shall not be revoked for failure of a person to make restitution pursuant to this section as a condition of probation unless the court determines that the person has willfully failed to pay or failed to make sufficient bona fide efforts to legally acquire the resources to pay.

(n) If the court finds and states on the record compelling and extraordinary reasons why restitution should not be required as provided in paragraph (2) of subdivision (a), the court shall order, as a condition of probation, that the minor perform specified community service.

(o) The court may avoid ordering community service as a condition of probation only if it finds and states on the record compelling and extraordinary reasons not to order community service in addition to the finding that restitution pursuant to paragraph (2) of subdivision (a) should not be required.

(p) When a minor is committed to the Department of the Youth Authority, the court shall order restitution to be paid to the victim or victims, if any. Payment of restitution to the victim or victims pursuant to this subdivision shall take priority in time over payment of any other restitution fine imposed pursuant to this section.

(q) At its discretion, the board of supervisors of any county may impose a fee to cover the actual administrative cost of collecting the

restitution fine, not to exceed 10 percent of the amount ordered to be paid, to be added to the restitution fine and included in the order of the court, the proceeds of which shall be deposited in the general fund of the county.

(r) If the judgment is for a restitution fine ordered pursuant to subparagraph (A) of paragraph (2) of subdivision (a), or a restitution order imposed pursuant to subparagraph (B) of paragraph (2) of subdivision (a), the judgment may be enforced in the manner provided in Section 1214 of the Penal Code.

SEC. 4. Section 730.7 of the Welfare and Institutions Code is amended to read:

730.7. (a) In a case in which a minor is ordered to make restitution to the victim or victims, or the minor is ordered to pay fines and penalty assessments under any provision of this code, a parent or guardian who has joint or sole legal and physical custody and control of the minor shall be rebuttably presumed to be jointly and severally liable with the minor in accordance with Sections 1714.1 and 1714.3 of the Civil Code for the amount of restitution, fines, and penalty assessments so ordered, up to the limits provided in those sections, subject to the court's consideration of the parent's or guardian's inability to pay. When considering the parent's or guardian's inability to pay, the court may consider future earning capacity, present income, the number of persons dependent on that income, and the necessary obligations of the family, including, but not limited to, rent or mortgage payments, food, children's school tuition, children's clothing, medical bills, and health insurance. The parent or guardian shall have the burden of showing an inability to pay. The parent or guardian shall also have the burden of showing by a preponderance of the evidence that the parent or guardian was either not given notice of potential liability for payment of restitution, fines, and penalty assessments prior to the petition being sustained by an admission or adjudication, or that he or she was not present during the proceedings wherein the petition was sustained either by admission or adjudication and any hearing thereafter related to restitution, fines, or penalty assessments.

(b) In cases in which the court orders restitution to the victim or victims of the offense, each victim in whose favor the restitution order has been made shall be notified within 60 days after restitution has been ordered of the following:

(1) The name and address of the minor ordered to make restitution.

(2) The amount and any terms or conditions of restitution.

(3) The offense or offenses that were sustained.

(4) The name and address of the parent or guardian of the minor.

(5) The rebuttable presumption that the parent or guardian is jointly and severally liable with the minor for the amount of restitution so ordered in accordance with Sections 1714.1 and 1714.3

of the Civil Code, up to the limits provided in those sections, and that the parent or guardian has the burden of showing by a preponderance of the evidence that the parent or guardian was either not given notice of potential liability for payment of restitution prior to the petition being sustained by an admission or adjudication, or that he or she was not present during the proceedings wherein the petition was sustained by an admission or adjudication and any hearings thereafter related to restitution.

(6) Whether the notice and presence requirements of paragraph (5) were met.

(7) The victim's rights to a certified copy of the order reflecting the information specified in this subdivision.

(c) The victim has a right, upon request, to a certified copy of the order reflecting the information specified in subdivision (b).

(d) This section does not apply to foster parents.

(e) Nothing in this section shall be construed to make an insurer liable for a loss caused by the willful act of the insured or the dependents of the insured pursuant to Section 533 of the Insurance Code.

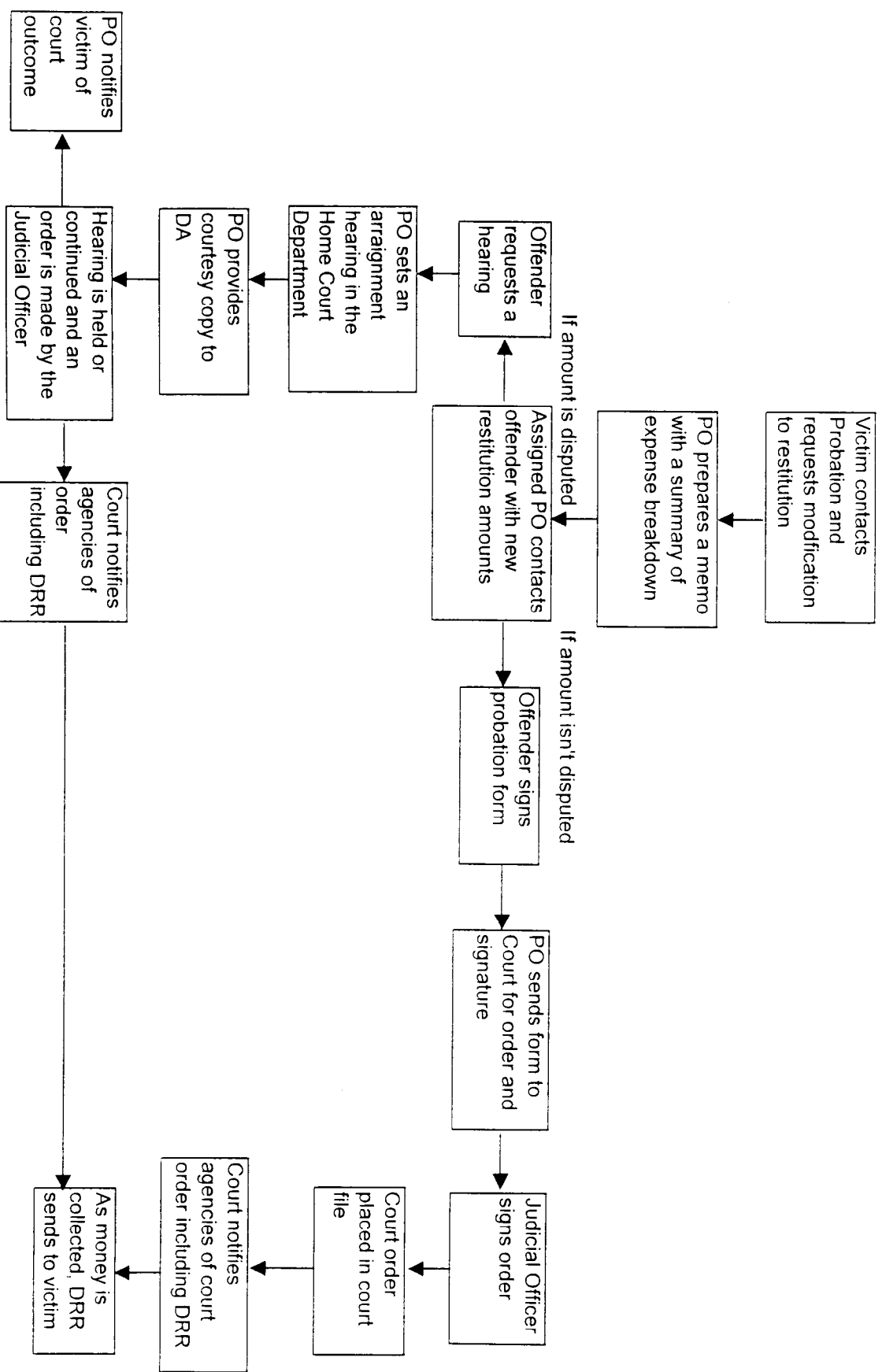
SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to determine an effective means to amend restitution orders and to hold offenders accountable for all of the losses incurred by their victims, at the earliest possible time, it is necessary that this act take effect immediately.



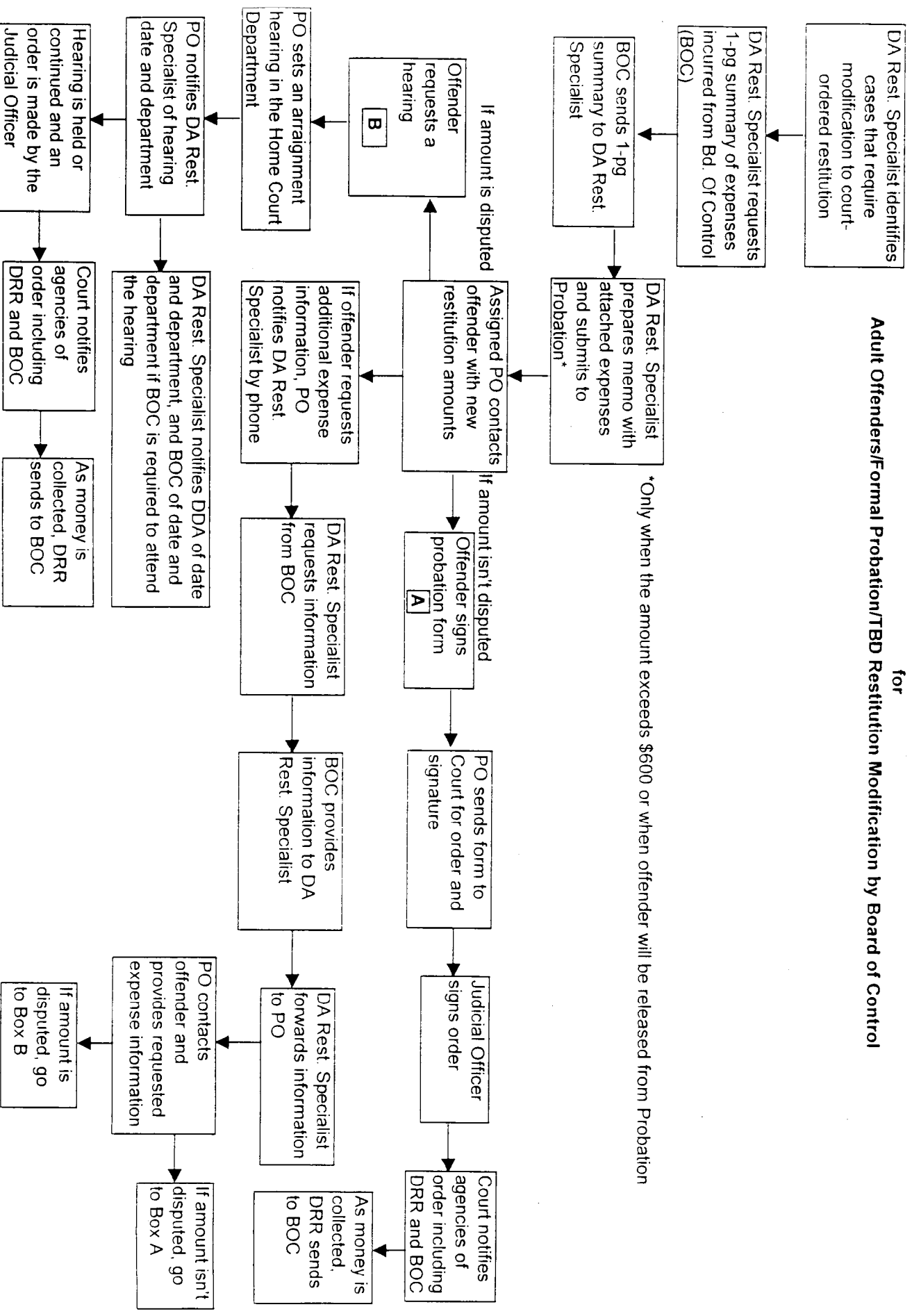
## ATTACHMENT B

# Restitution Modification Procedure for Adult Offenders/Formal Probation/TBD Restitution Modification by Victim



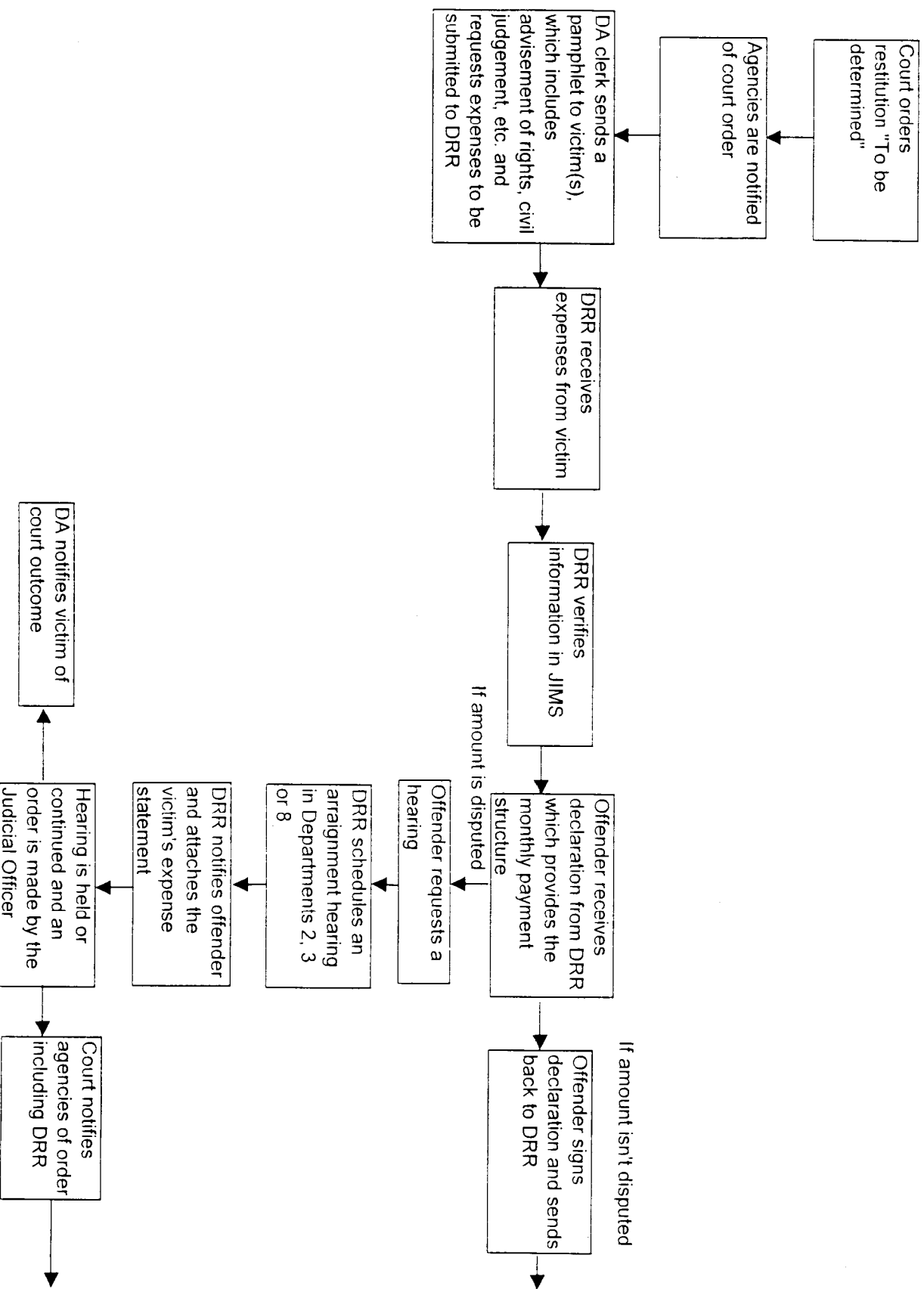
# Pilot Program Restitution Modification Procedure

## for Adult Offenders/Formal Probation/TBD Restitution Modification by Board of Control

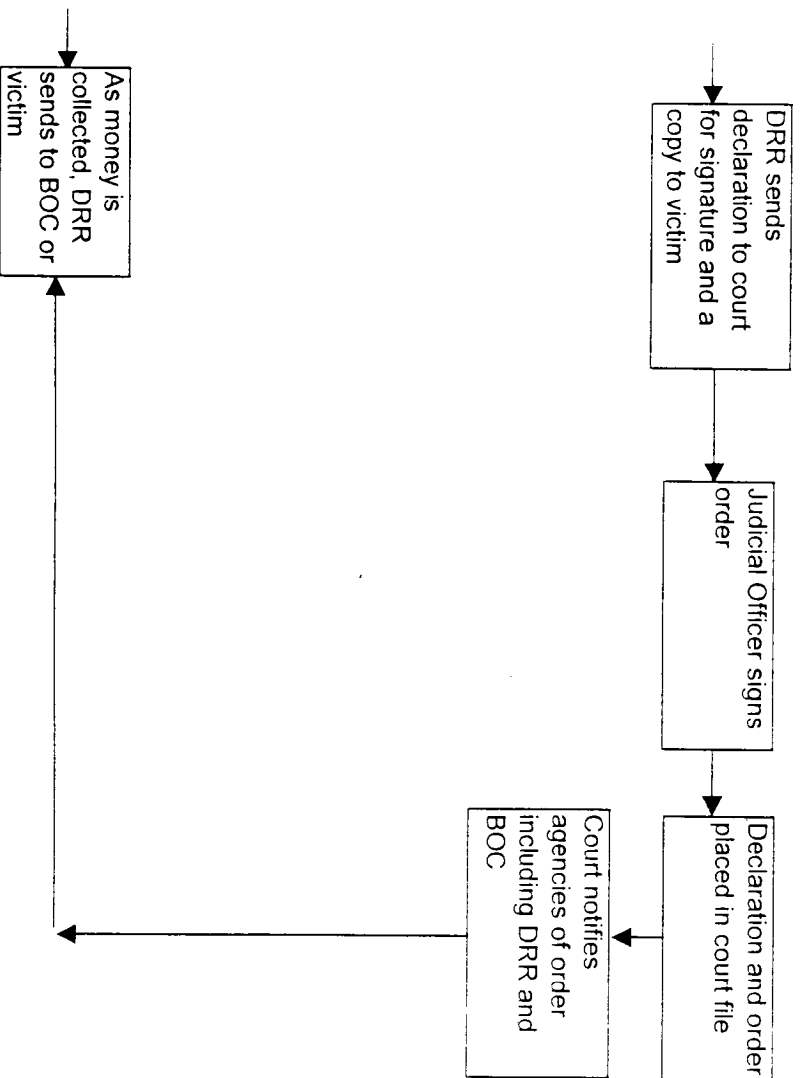




**Restitution Modification Procedure  
for  
Adult Offenders/Informal Probation/TBD Restitution**



**Restitution Modification Procedure  
for  
Adult Offenders/Informal Probation/TBD Restitution**



## ATTACHMENT C

PEOPLE OF THE STATE OF CALIFORNIA )  
VS. )  
 )  
 )  
 )  
 )  
 )  
DEFENDANT

DATE  
DEPARTMENT NO.  
COURT NO.  
PROBATION NO.  
X-REFERENCE

**MOTION AND ORDER PURSUANT TO  
RESTITUTION DETERMINATION**

he Probation Officer respectfully submits that on \_\_\_\_\_, said defendant was granted \_\_\_\_\_ years on probation and was ordered as a condition of probation to make restitution in an amount to be determined. The Probation Officer has investigated losses caused by the defendant and recommends:

THAT said defendant \_\_\_\_\_

THAT said defendant be ordered to make restitution in the amount of , payable through the Department of Revenue Recovery.

ACKNOWLEDGMENT OF PROBATIONER

I understand that I have a right to a court hearing to contest the above restitution amount and to be represented by an attorney at the hearing and that, if I cannot afford one, an attorney will be appointed to represent me at no cost.

I hereby waive my right to a hearing and my right to an attorney, and agree to make restitution in the above amount.

Disagree with the recommendation of the probation officer and request a hearing.

I understand that, if I request a hearing and fail to appear, the court will construe this as a waiver of all of above rights and will order payment of restitution in the above amount.

I understand that any restitution order will be deemed a money judgment and will be enforceable by the victim as if it were a civil judgment. (Pen Code, Sec. 1214(b).)

hearing on the issue of restitution determination has been scheduled for you on , in Superior Court, Sacramento, in the Sacramento County Courthouse, 720 - 9th Street, Sacramento, CA.

to appear shall result in the Court presuming that you have waived your right to a hearing and an order of revocation will be made as recommended by the Probation Officer.

**PROBATIONER/DATE**

WITNESS: DEPUTY PROBATION OFFICER

— THAT said defendant's restitution order set at zero as the victim(s).

Failed to respond to written inquiries made on \_\_\_\_\_ and \_\_\_\_\_  
 Moved and left no forwarding address.

— Is/Are proceeding through civil litigation.

the event new information concerning restitution is received, a modification order will be requested.

**ADDITIONAL COMMENTS:**

VERNE L. SPEIRS  
CHIEF PROBATION OFFICER

3Y:

SUPERVISING PROBATION OFFICER

DEPUTY PROBATION OFFICER

**COURT ORDERS:**

— DEFENDANT TO MAKE RESTITUTION IN THE AMOUNT OF \$ \_\_\_\_\_, PAYABLE THROUGH THE OFFICE OF REVENUE RECOVERY.

— DEFENDANT'S RESTITUTION ORDER BE SET AT ZERO.

13.

2016

CLERK OF THE COURT

100-67 2B 100-1000



OFFICE OF THE  
DISTRICT ATTORNEY  
SACRAMENTO COUNTY

JAN SCULLY  
DISTRICT ATTORNEY

CYNTHIA G. BESEMER  
CHIEF DEPUTY

October 27, 1999

«FirstName» «LastName»  
«Address1»  
«City», «State» «PostalCode»

Re: RESTITUTION

People vs. «Defendant»

Court Docket Number: «Courtdocket»

DA Key Number: «DAkey»

Court Date: «Courtdate» Time: «Time»

Department: «Department»

You are listed as a victim in the above-entitled case. The defendant has been convicted and you may be entitled to restitution. All moneys collected from the defendant will be disbursed through the Department of Revenue Recovery (DRR).

In order to effectuate an order for restitution you must complete the attached DECLARATION FOR RESTITUTION and send copies of all supporting documentation with the Declaration to:

DEPARTMENT OF REVENUE RECOVERY  
RESTITUTION UNIT  
301 BICENTENNIAL CIRCLE SUITE 200  
SACRAMENTO, CA. 95826-2758

If you have any questions about this order or the disbursement of moneys received from the defendant please contact DRR at (916)875-7894.

Very truly yours  
JAN SCULLY  
DISTRICT ATTORNEY

**People vs.** «Defendant»

**Court Docket Number:** «Courtdocket»

**DA Key Number:** «DAkey»

**Court Date:** «Courtdate» **Time:** «Time»

**Violation Date:** «Violationdate»

**Victim:** «FirstName» «LastName»

**Department:** «Department»

### **DECLARATION FOR RESTITUTION**

I, \_\_\_\_\_, do hereby declare upon the basis of information and belief as follows: That I am a victim in the above-entitled case. As a result of the defendant's conduct, I suffered the following losses:

- \$ \_\_\_\_\_ For the value of property stolen from me:  
\$ \_\_\_\_\_ For the value of property destroyed or damaged by the defendant:  
\$ \_\_\_\_\_ For the value of medical expenses incurred by me to date as a result of injuries by the defendant:  
\$ \_\_\_\_\_ For the value of wages lost to me by reason of the defendant's conduct:  
\$ \_\_\_\_\_ For the value of profits lost to me by reason of the defendant's conduct:  
\$ \_\_\_\_\_ Other (Please explain below)

I have insurance with \_\_\_\_\_, policy number \_\_\_\_\_  
My deductible is \_\_\_\_\_ My insurance company has reimbursed me in the amount of \$ \_\_\_\_\_

I am including copies of all invoices, receipts, statements, estimates, and other similar document supporting the dollar amounts listed above.

I declare under penalty of perjury, to the best of my ability, that the foregoing is true and correct.

Submitted on \_\_\_\_\_, 19 \_\_\_\_\_

Signature of Declarant (your name) \_\_\_\_\_

\_\_\_\_\_ Social Security Number

Your current address \_\_\_\_\_

\_\_\_\_\_ Driver's License Number

City and State \_\_\_\_\_

\_\_\_\_\_ Phone Number

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SACRAMENTO

Case No. \_\_\_\_\_

DRR No. \_\_\_\_\_

THE PEOPLE OF THE STATE OF CALIFORNIA )

Plaintiff, )

vs. )

Defendant. )

DECLARATION AND ORDER FOR PAYMENT OF:  
RESTITUTION  
P.C. 1202.4

I the undersigned declarant, an authorized representative of the Division of Revenue Recovery, County of Sacramento, declare that on \_\_\_\_\_ the Defendant in the above-mentioned matter was ordered to pay restitution as a condition of a conditional sentence, in an amount to be determined by the District Attorney's Victim Witness Program.

I further declare that the Victim Witness Program has received information from the victim(s) involved in this case, and has determined that a total of \$ \_\_\_\_\_ is owed in restitution.

☐ And the defendant has agreed to this reimbursement as evidenced by the accompanying "Statement of Ability to Pay and Promissory Note" and "Waiver of Hearing."

☐ But the defendant has failed/refused to contact the Division of Revenue Recovery for financial evaluation regarding payment of the restitution, and has been notified by mail that his/her failure to dispute the amount of restitution determined will be presumed to be a waiver of his/her right to a hearing regarding determination of the restitution amount.

I declare under penalty of perjury that the above statements are true and correct to my knowledge.

Executed at Sacramento, California on \_\_\_\_\_

\_\_\_\_\_  
Declarant

ORDER AND JUDGMENT

Based on the foregoing declaration, it is ordered that the defendant pay restitution through the Division of Revenue Recovery in the amount of \$ \_\_\_\_\_ and that the conditional sentence ordered on \_\_\_\_\_ be modified to reflect the amount of restitution determined. This order is subject to further modification if additional information is ultimately received from the victim(s) in this case.

Dated: \_\_\_\_\_

Judge: \_\_\_\_\_

Department: \_\_\_\_\_

Distribution: White-Court File White-DRR Action Yellow-DRR File Pink-Victim Goldenrod-Defendant

sect\_0116.fm (rev. 11/99) 1-7

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
IN AND FOR THE COUNTY OF SACRAMENTO

Case No. \_\_\_\_\_

DRR No. \_\_\_\_\_

THE PEOPLE OF THE STATE OF CALIFORNIA )

Plaintiff )

VS )

Defendant. )

WAIVER OF HEARING. re:  
RESTITUTION  
(P. C. 1202.4)

I understand that I have a right to a court hearing to contest the restitution amount \$ \_\_\_\_\_ and to be represented by an attorney at the hearing and that, if I cannot afford one, an attorney will be appointed to represent me at no cost.

I understand that, if I request a hearing and fail to appear, the court will construe this as a waiver of all of the above rights and will order payment of restitution in the above amount.

Having entered into an agreement with the Division of Revenue Recovery regarding payment of said restitution, I hereby waive my right to a hearing and my right to an attorney, and agree to make restitution in the above amount.

I understand that any restitution order will be deemed a money judgement and will be enforceable by DRR or the victim as if it were a civil judgment. (P.C.1214 (b).)

VERIFICATION

I, the undersigned, the defendant in the above-entitled matter, have read the foregoing Waiver of Hearing and know the contents hereof.

Executed at Sacramento, California, on \_\_\_\_\_

\_\_\_\_\_  
Defendant